

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.2821 OF 2004

Santosh s/o Vinayak Mugutkar
Age 30 years, Occ. Nil,
R/o 30, Viveknagar, Nanded

... PETITIONER

VERSUS

1. The State of Maharashtra
(through its Secretary,
School Education Department,
Mantralaya, Mumbai – 32)
(Copy to be served on Govt. Pleader,
High Court, Bench at Aurangabad)
2. The Maharashtra State Board of
Secondary & Higher Secondary
Education (through its Divisional
Secretary), Aurangabad Division,
Aurangabad.
3. The Education Officer (Secondary),
Zilla Parishad, Nanded.
4. The Maharashtra Public Service
Commission (through its Deputy
Secretary & Controller of Examinations),
3rd Floor, M.G. Road,
Mumbai – 400 001.

... RESPONDENTS

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Shri Auti, Advocate holding for
Shri S.B. Talekar, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
Shri V.R. Sonwalkar, Advocate for respondent No.2
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CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 10th April, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. Mr. Auti, learned counsel for the petitioner states that, now the petition is restricted to prayer clause (A) and the prayer clauses (B) and (C) have become redundant as on today.

2. Mr. Sonwalkar, learned counsel for respondent No.2 and learned A.G.P. submit that the Education Officer does not have power to order correction in the school record after the student has left the school in view of the provisions of the Secondary School Code. Mr. Sonwalkar, learned counsel submits that, unless the school record is corrected, the respondent No.2 cannot correct the date of birth in the passing certificate.

3. We have considered the submissions canvassed by learned counsel for the parties. This Court, in catena of matters, held that Rule 26.4 read with Appendix VI of the Secondary School Code is directory in nature. Only because student has left the school, that would not take away the powers of the Education

Officer to exercise its powers under clause 26.4 read with Appendix VI. In light of the above, we pass the following order :

4. Respondent No.3 shall consider the application of the petitioner for correction of date of birth on its own merits in accordance with law, facts on record and take decision appropriately, expeditiously, preferably within six months. In case the petitioner succeeds in getting the school record corrected, then the petitioner may approach the respondent No.2 and the respondent No.2 shall take decision on the same. Writ petition accordingly stands disposed of. Rule accordingly disposed of. No costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)